

REMARKS

The Examiner has rejected Claims 26-28 as being anticipated under 35 U.S.C. 102(e) by U.S. Patent No. 6,171,610 to Vacanti et al. This claim rejection is respectfully traversed for the following reasons.

Independent Claim 26 relates to a method for repairing a defect area at the gradient junction of cartilaginous tissue and bony tissue, which includes the step of providing a composite scaffold with a porous ceramic phase, a porous polymer phase, the polymer phase attached to the ceramic phase at an **interphase region** where the polymer phase is at least partially **infused** into the ceramic phase mechanically **interlocking** the ceramic and polymer phases, with the porosity of the ceramic and polymer phases communicating. The other steps involve boring a receptacle space in the gradient junction at the site of the injury to receive the scaffold, the gradient junction being that of articular cartilage, and placing and securing the scaffold in the receptacle space with the ceramic phase adjacent to the bony tissue and the polymer phase adjacent to the cartilaginous tissue.

It is respectfully submitted that the Vacanti et al. reference does not anticipate or make obvious the present invention as recited in Claim 26. The Vacanti et al. reference discloses a method for generating tissue in a patient by delivering a liquid hydrogel-cell composition into a permeable, biocompatible support structure. Although the support structure disclosed in the Vacanti et al. reference may be a ceramic structure and a skeleton of struts, such as a network of ceramic or plastic rods, there is

no disclosure or suggestion in the Vacanti et al. reference of the specific interaction between a polymer phase and a ceramic phase, much less an **interphase region** where the polymer phase is at least partially **infused** into the ceramic phase mechanically **interlocking** the ceramic and polymer phases, with the porosity of the ceramic and polymer phases communicating, as recited in independent Claim 26. In view of at least this distinction, it is respectfully submitted that the Vacanti et al. reference fails to disclose or suggest the method recited in independent Claim 26.

In the foregoing circumstances, independent Claim 26 is believed to be in condition for allowance. Because new Claim 29 depends directly from independent Claim 26, it is also believed to be in condition for allowance.

Independent method Claims 27 and 28 are very similar in scope to that of independent method Claim 26. More particularly, each of the methods recited in Claims 27 and 28 requires the step of providing a composite scaffold with a porous ceramic phase, a porous polymer phase, the polymer phase attached to the ceramic phase at an **interphase region** where the polymer phase is at least partially **infused** into the ceramic phase mechanically **interlocking** the ceramic and polymer phases, with the porosity of the ceramic and polymer phases communicating. In such circumstances, independent Claims 27 and 28 are patentably distinguishable over the Vacanti et al. reference for the reasons discussed above. Accordingly, independent Claims 27 and 28 are believed to be in condition for allowance.

For the sake of good order, applicants' attorney notes that the submittal of this Amendment should not be construed as an admission that the Vacanti et al.

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reference constitutes statutory prior art with respect to the present invention. More particularly, applicants' attorney notes that the Vacanti et al. reference did not issue more than one year before the filing date of the present application and, as a result, it does not constitute statutory prior art under 35 U.S.C. 102(b).

In view of the foregoing amendments and remarks, applicants' attorney respectfully requests reexamination and allowance of pending Claims 26-28, and examination and allowance of new Claim 29. If such action cannot be taken, the Examiner is cordially invited to place a telephone call to applicants' attorney in order that any outstanding issue may be resolved without the issuance of a further Office Action.

No fees are believed to be due in connection with the submission of this Amendment. If there are any fees due as a result of this Amendment, including extension and petition fees, the Examiner is authorized to charge them to Deposit Account No. 503571.

Respectfully Submitted,

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